

## **REMARKS**

### **I. Amendments**

Claims 21, 22, 46 and 47 have been amended, and claims 8, 20, 34, 35 and 45 have been canceled.

This amendment adds no new matter to the specification. Support for this amendment is found in the specification and claims as filed.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached pages are captioned "Version with Markings to Show Changes Made".

No change of inventorship is necessitated by this amendment.

### **II. Discussion of the Previously Submitted Information Disclosure Statement**

The Examiner has indicated that references A4-A10 listed on the PTO Form 1449 filed on October 30, 2001 are not in the file. As requested by the Examiner, a copy of each of those references accompanies this response. Applicants therefore respectfully request review of the previously filed Information Disclosure Statement, and an initialed copy of PTO Form 1449.

### **III. Discussion of the Supplemental IDS**

A Supplemental Information Disclosure Statement and one reference accompany this response. Applicants respectfully request consideration of the Supplemental Information Disclosure Statement.

#### **IV. Discussion of the Double-Patenting Rejection**

The Examiner has rejected claims 1-9, 11-36 and 38-49 as allegedly non-patentable for non-statutory double patenting in view of U.S. Patent No. 6,328,994.

A Terminal Disclaimer over U.S. Patent No. 6,328,994 accompanies this response.

Therefore, Applicants respectfully request withdrawal of the rejection for non-statutory double patenting rejection.

#### **V. Discussion of the Rejection under 35 U.S.C. Sec. 102(a)**

Claims 32-36 and 38-49 have been rejected under 35 U.S.C. Sec. 102(a) as allegedly anticipated by Shimizu *et al.*, U.S. Patent No. 5,824,339.

The translations of the five priority documents for the present application accompany this response. In light of the priority dates and subject matters of these documents, Applicants respectfully request reconsideration of the rejection under 35 U.S.C. Sec. 102(a).

#### **VI. Discussion of the Rejection under 35 U.S.C. Sec. 102(e)**

Claims 1-9, 11-22, 24, 31-36 and 38-49 have been rejected under 35 U.S.C. Sec. 102(e) as allegedly anticipated by Shimizu *et al.*, U.S. Patent No. 5,824,339.

The cited reference is directed to effervescent compositions including (a) enteric coating layer, water-soluble polymer and active agent; (b) an effervescing component and (c) an auxilliary effervescing agent.

By contrast, the present invention is directed to orally disintegrable tablets or fine granules including (a) enteric coating agent, sustained release agent and active agent; and (b) an additive, as set forth in independent claims 1 and 32.

The cited art contains no mention of a sustained release agent, nor does it identify additives which could be equated to the sustained-release agent of the present invention. Therefore, the cited reference does not anticipate the present invention as set forth in independent claims 1 and 32.

Claims 8, 20, 34, 35 and 45 have been cancelled. Claims 2-7, 9, 11-19 and 21-31 depend upon claim 1, while claims 33, 36, 38-44 and 46-49 depend upon claim 32. Applicants submit that the more specific dependent claims are also not anticipated by the cited reference.

Therefore, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. Sec. 102(e).

**VII. Discussion of the Rejection under 35 U.S.C. Sec. 103(a) over Shimizu *et al.* '339**

Claims 31-36 and 38-49 have been rejected under 35 U.S.C. Sec. 103(a) as allegedly obvious in light of Shimizu *et al.*, U.S. Patent No. 5,824,339.

The cited reference is directed to effervescent compositions including (a) enteric coating layer, water-soluble polymer and active agent; (b) an effervescing component and (c) an auxilliary effervescing agent.

By contrast, the present invention is directed to orally disintegrable tablets or fine granules including (a) enteric coating agent, sustained release agent and active agent; and (b) an additive, as set forth in independent claims 1 and 32.

The cited art contains no mention of a sustained release agent, nor does it identify additives which could be equated to the sustained-release agent of the present invention. Therefore, the cited reference does not render the present invention as set forth in independent claims 1 and 32 obvious, as it neither teaches nor suggests sustained release agents.

Claims 34, 35 and 45 have been cancelled. Claim 31 depends upon claim 1, while claims 33, 36, 38-44 and 46-49 depend upon claim 32. Applicants submit that the more specific dependent claims are also not rendered obvious by the cited reference.

Therefore, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. Sec. 103(a) over Shimizu *et al.*

**VIII. Discussion of the Rejection under 35 U.S.C. Sec. 103(a) over Shimizu *et al.* ‘339 in view of Shimizu *et al.*, ‘904**

Claims 1-9 and 11-30 have been rejected under 35 U.S.C. Sec. 103(a) as allegedly obvious in light of Shimizu *et al.*, U.S. Patent No. 5,824,339 in view of Shimizu *et al.*, U.S. Patent No. 6,299,904.

Applicants assert that their invention is not obvious over Shimizu *et al.*, ‘339 as argued above, as that reference neither teaches nor suggests sustained release agents.

The deficiencies of Shimizu *et al.*, ‘339 are not cured by Shimizu *et al.* ‘904. Furthermore, Applicants submit that the ‘904 reference is not properly cited art. Applicants respectfully request the Examiner’s reconsideration of the reference in light of Applicants’ earlier priority.

Therefore, the combination of the cited references does not render the present invention as set forth in independent claim 1 obvious, as the combination neither teaches nor suggests sustained release agents.

Claims 8 and 20 have been cancelled. Claims 2-7, 9, 11-19 and 21-30 depend upon claim 1. Applicants submit that the more specific dependent claims are also not rendered obvious by the combination of the cited references.

Therefore, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. Sec. 103(a) over Shimizu *et al.* '339 in view of Shimizu *et al.* '904.

#### IX. Discussion of the Additionally Cited References

Applicants wish to thank the Examiner for bringing the cited references of Makino *et al.* and Cousin *et al.* Applicants have carefully reviewed these references and do not believe that they detract from the patentability of the subject invention.

#### X. Conclusion

Reconsideration and allowance of the claims is requested in light of the amendments and arguments provided above. Should the Examiner believe that a conference with Applicants' attorney would advance prosecution of this application, she is respectfully requested to call Applicants' attorney at (847) 383-3391.

Respectfully submitted,

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